THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.24568 OF 2006

DATED: 12-6-2007

Between:

M.S. Sarojini Rao

.. Petitioner

and

The Railway Protection Force, represented by its Senior Divisional Security Commissioner, Secunderabad Division, Secunderabad.

.. Respondent

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.24568 OF 2006

ORDER:

This writ petition is filed seeking a mandamus declaring the action of the respondent in passing the impugned proceedings No.S/X/626/Misc./Settlement, dated 14.11.2006, whereunder the request of the petitioner for acceptance of voluntary retirement was rejected solely on the ground that the petitioner was relieved with instructions to report at Divisional Commercial Manager, Nanded, as arbitrary and illegal; and consequently to direct the respondent to accept the request of the petitioner for voluntary retirement by granting all consequential benefits.

It appears, the petitioner, while working as Head Constable with the respondent-Railway Protection Force at Vikarabad, was found to be ailing for sometime and was de-categorized from B1/B2 to C1/C2 and below, and as such, the committee of officers recommended to post him as Commercial Clerk. Accordingly, he was posted as Commercial Clerk at Commercial Depot, Nanded, vide proceedings dated 14.09.2006, which was communicated to the Inspector, RPF, Vikarabad, and basing on the said proceedings, he was relieved from the Office of the Inspector, RPF, Vikarabad on 16.09.2006 with instructions to report before Divisional Commercial Manager, Nanded. Thereafter, on 18.09.2006, the petitioner submitted an application requesting the authorities to permit him to retire from service

voluntarily. But, the same was not accepted under the impugned order stating that his request for acceptance of voluntary retirement cannot be considered, since he was relieved on 16.09.2006 with instructions to report before Divisional Commercial Manager, Nanded. It is the case of the petitioner that he is a diabetic patient and not able to go to Nanded and manage himself there, and in view of the same and also in view of the fact that he was de-categorized as C1/C2 and below, the respondent should have accepted his application for voluntarily retirement.

In the counter filed by the respondent, it is asserted that since the petitioner was already relieved from the office of the Inspector, RPF, Vikarabad, on 16.09.2006, with instructions to report before the Divisional Commercial Manager, Nanded, the application filed by the petitioner on 18.09.2006 for accepting his voluntary retirement cannot be accepted. The petitioner has to submit the said application before the Divisional Commercial Manager, Nanded only.

Heard both sides.

The case of the petitioner is that he is suffering from ill health, unable to walk properly and cannot manage himself at Nanded and, therefore, sought for voluntary retirement. It is not the case of the respondent that it has no power to keep the transfer order in abeyance and consider the case of the petitioner for voluntary retirement. The only objection taken by the respondent is that since the petitioner was relieved to report at Nanded, he has to submit his application at Nanded only and his application for voluntary retirement cannot be considered by the respondent. Except this technical hurdle, there is no other objection in the way of the respondent. This Court is of the opinion that when the petitioner is suffering from ill health and is unable to manage himself, it is desirable that the respondent shall

consider his case for voluntary retirement, keeping the proceedings, dated 16.09.2006, in abeyance. Otherwise, it will be very difficult for the petitioner to go over to Nanded and seek voluntary retirement. As already stated above, except the technical objection taken by the respondent, practically, there could not have been any other objection for accepting the voluntary retirement of the petitioner.

Under these circumstances, the writ petition is disposed of directing the respondent to consider the case of the petitioner for voluntary retirement, as per law, treating that the petitioner is working at Vikarabad only, by canceling the relieving order dated 16.09.2006, and complete the process within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs.

C.V. RAMULU, J

12th June, 2007.
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